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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/466,438	12/17/1999	VIKTORS BERSTIS	AT9-99-725	1165

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EXAMINER

KRAMER, JAMES A

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 08/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/466,438

Applicant(s)

BERSTIS, VIKTORS

Examiner

James A. Kramer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-10, 13-23 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-10, 13-23 & 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6, 9, 14-16, 18-21 & 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Findley.

Findley teaches a system for providing additional security for a remote purchase with a credit or debit card comprising a memory subsystem that accepts and maintains purchase request information (selections) from previous and the current remote purchase requests and a purchase request processing logic sub-system that compares the purchase request history with current remote purchase request and blocks the purchase if the comparison meets any one of a predetermined set of criteria (column 2; lines 32-39).

Examiner notes that Findley teaches, in the preferred embodiment, that an inquiry is made into whether or not an item in the same merchant-defined merchandise category has been purchased (column 4; lines 49-51). In order for the preferred embodiment of Findley to group the specific item (good or service) into a merchant-defined category, the system must store the selection of goods and services. Examiner therefore notes that Findley does in fact teach storing the selection of goods and/or services as purchase request information in the memory subsystem.

Examiner further notes that Findley teaches that a thief will likely have different tastes from a card owner (column 3; lines 61-62) and therefore the preferred embodiment of Findley teaches comparing the current merchant to previous merchants. However, it is within the scope these teachings to also compare the current items purchased with previously purchased items in order to provide customers with an additional layer of protection. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a

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comparison of current items purchased versus a list previously purchased items stored in the memory subsystem as one of the predetermine set of criteria of Findley in order to give customers an extra layer of protection.

Findley also teaches a system that queries the user for a piece of private information before blocking the transaction in order to validate the user with the financial institution (column 5; lines 21-30). Finally, the system of Findley takes purchase information from plurality of stores or shopping facilities.

Claims 8, 13, 17 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Findley in view of Kanevsky et al. The system of Findley, as described above does not teach a system that asks multiple questions to the user before allowing access. Kanevsky et al. teaches a system of questioning a user to provide secure access control. In particular Kanevsky et al. teaches asking multiple questions before allowing access to a user (column 3; lines 26-30). It would have been obvious to anyone skilled in the art at the time of the invention to include the limitations of Kanevsky et al. to the system of Findley in order to provide additional levels of security.

Claims 5, 10 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Findley in view of Penzias. The system of Findley, as described above does not teach a system that stores selections based on purchases made with a plurality of credit or debit cards. Penzias teaches a system of providing an individual protection for remote purchases, in particular the system applies to multiple cards with different account numbers (Figure 5, shows the account table which holds information for a plurality of credit cards). Since most people today have more than one credit card, when a wallet is stolen or misplaced a thief has access to all of a victims credit and debit cards. Therefore, anyone skilled in the art at the time of the invention would have been motivated to combine the concept of multiple card protection in Penzias with the system in Findley to provide protection and security for all of a customer's credit and debit cards.

***Response to Arguments***

Applicant's arguments filed 9/16/02 have been fully considered but they are not persuasive.

Applicant asserts that it is antithetical to suggest that Findley be applied to an application wherein highly consistent purchasing behavior is the norm. Examiner disagrees. The system of Findley relies on a number fraud indicators (reference equation on column 4) before blocking a purchase request. While Findley identifies repeat purchases as one sign of fraud, it is important to note that the teachings include a time period element. Thus, the system looks for multiple purchases over a very short period as an indication of fraud.

In addition, Findley also teaches that a thief will have very different tastes from a card owner. Findley therefore recognizes inconsistency as a sign of fraud (column 3; lines 61-62). As such, Examiner asserts that the rejection of Applicant's claims described above is in no way inconsistent with the teachings of Findley.

Applicant asserts that Findley does not analyze the actual goods and/or services being selected by the user. Applicant's arguments are moot in view of the new ground(s) of rejection.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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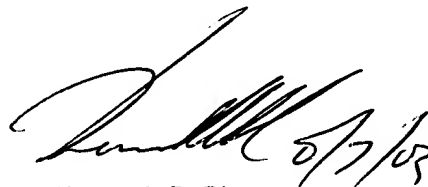
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Kramer whose telephone number is (703) 305-5241. The examiner can normally be reached on Monday - Friday (8AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (703) 305-4716. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-3687 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

James A. Kramer  
Examiner  
Art Unit 3627

JAK  
August 6, 2003



Kenneth R. Rice  
Primary Examiner